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SEP 27 2006

OFFICE OF PETITIONS

In re Application of :
Nicholas deBeer et al : DECISION ON PETITION
Application No. 10/052,758 : UNDER 37 CFR 1.137(b)
Filed: January 18, 2002 :
Attorney Docket No. TSNMNP00100 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2006, to revive the above-identified application.

The petition is granted.

This application became abandoned for failure to timely reply to the Notice of Non-Compliant Amendment, mailed July 9, 2004, which set a one month extendable period for reply. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 10, 2004. A Notice of Abandonment was mailed on January 26, 2005.

The petition satisfies the requirements for a grantable petition in that the reply; the petition fee of \$750; and the required statement of unintentional delay have been submitted. Accordingly, the reply to the Notice of Non-Compliant Office action of July 9, 2004 is accepted as having been unintentionally delayed.


It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the

entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$1,080 extension of time submitted with the petition on January 13, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3738 for appropriate action in the normal course of business on the reply received with the petition on January 13, 2006.


Frances Hicks
Petitions Examiner
Office of Petitions



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OFFICE OF PETITIONS

In re Application of	:
Nicholas deBeer et al	: DECISION ON PETITION TO
Application No. 10/052,758	: WITHDRAW FROM RECORD
Filed: January 18, 2002	:
Attorney Docket No. 876635-1	:

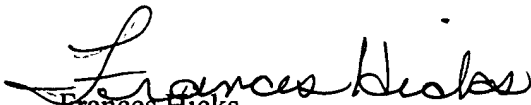
This is a decision on the request to withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 16, 2004.

The request is **NOT APPROVED** as moot.

A review of the file record fails to indicate that a power of attorney was ever given to petitioner herein or the other attorneys noted in the request. The oath or declaration submitted on January 18, 2002 only directs that correspondence be mailed to petitioner herein. At most, the record supports the fact that petitioner herein has been employed or otherwise engaged in the proceedings in this patent application. Nevertheless, the request is now moot in view of the acceptance of a power of attorney by applicants dated January 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions

cc:

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